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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

SUMMARY RECORD OF THE 350th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 9 January 1997, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Ethiopia (continued) (CRC/C/8/Add.27; CRC/C/Q/ETH.1 and Rev.1 (list of issues); country analysis with no document symbol (English only); and written replies by the Government of Ethiopia with no document symbol)

1. At the invitation of the Chairperson, the Ethiopian delegation resumed its place at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to ask questions concerning sections II and III of the initial report of Ethiopia (CRC/C/8/Add.27), entitled "Definition of the child" and "General principles", respectively.

3. Mrs. SANTOS PAIS welcomed the announcement by the Ethiopian delegation that the statutory minimum age for marriage was to be brought into line with the provisions of the Convention and the Ethiopian Constitution. Since, however, legislation alone could not change traditional attitudes, she would like to know whether the authorities envisaged launching campaigns to heighten awareness of the adverse effects of early marriage on the health and education of girls. Article 34, paragraph 4, of the Constitution stated that laws and procedures might be enacted recognizing the validity of marriages concluded in accordance with religious and cultural laws. It was surely incumbent on the Constitution to contradict cultural laws that upheld and perpetuated the tradition of early marriage; she therefore wondered whether there was any intention to develop the provisions of the Constitution in that regard.

4. It appeared from the initial report (CRC/C/8/Add.27) that there was no minimum age below which a child could not appear in court as a witness, the matter being left to the discretion of the judge, although it might often be against the child's best interests to so appear. She urged the authorities to consider establishing a minimum age below which children should not testify in court, if such measures had not already been envisaged.

5. On the question of criminal liability, it appeared from paragraph 40 of the initial report and from the written replies that children below the age of 9 were not criminally liable; that those aged between 9 and 15 were subject to special measures under the Penal Code; and that children aged 15 to 18 were treated as adults. Did that mean that children in the last group were subject to life imprisonment and to detention in adult correctional facilities? Did reintegration programmes take account of their special needs? Could children aged 15 or below be deprived of their liberty?

6. Those were some areas in which the provisions of the Convention were not, perhaps, fully respected. Furthermore, paragraph 41, subparagraph (c), and paragraph 42, subparagraph (b), of the initial report also gave the impression that the decision to detain a child could be taken on the basis of a highly subjective assessment of his or her character; indeed, it was not even clear from those subparagraphs that a child must have committed an offence in order to be deprived of liberty.

7. Lastly, the recourse to corporal punishment clearly conflicted with the provisions of the Convention. She would thus like to know whether any steps had been taken to suspend application of the provisions of the Penal Code authorizing the use of corporal punishment.

8. Miss MASON asked whether children's views were elicited with regard to the questions of early marriage and corporal punishment. She praised the official attitude towards children born out of wedlock; but wondered what the actual state of affairs in Ethiopian society was in that regard. Were persons at the woreda level used to disseminate a better comprehension of the Convention's provisions and general principles? What was the real attitude of adults in rural and poor urban areas towards children, particularly with regard to respecting their views?

9. Mr. KOLOSOV noted that married children apparently became fully emancipated and acquired the same rights and obligations as adults. Did that mean that they were no longer protected by the provisions of the Convention and the corresponding provisions of the Constitution, such as its article 36?

10. While the authorities' efforts to raise and equalize the minimum age for marriage were commendable, legislation could not sweep away age-old traditions overnight. He would thus like to know whether there was any intention to launch campaigns in remote areas to increase awareness of the harmful consequences of early marriage, such as marital breakups, sexual exploitation, a high incidence of HIV, and lost educational opportunities.

11. Mr. MOMBESHORA asked for clarification of the statement that a marriage contracted between persons one or both of whom were below the minimum age was "invalid". Was there a law providing that such a marriage was illegal and, as such, punishable? Furthermore, he noted that, under one of the two systems for arranged marriages, children were permitted to cohabit from the age of 10, while the age of sexual consent was 15. That situation seemed to constitute an incitement to contravene the regulations designed to protect children.

12. According to paragraph 37 of the report, the minimum age for employment was 14, and measures had been put in place to protect young workers. Had Ethiopia considered ratifying the International Labour Organization's Minimum Age Convention, 1973 (No. 138), as a means of standardizing those objectives? Were there any supervisory mechanisms to ensure that labour regulations were not infringed? Was there a minimum age below which a child was not permitted to seek medical advice without parental consent?

13. Mrs. EUFEMIO noted that the "evolving capacities of the child" referred to in article 5 of the Convention were physical, emotional, psychosocial, and, in some cultures, also bound by tradition. To what extent had account been taken of that concept in defining what constituted a child in Ethiopia? At what age, for instance, could a child undergo medical treatment without parental consent?

14. Neither the initial report nor the written replies made any mention of the involvement of children in armed conflict. Article 38 of the Convention prescribed a minimum age of 15 for such involvement. In the light of Ethiopia's recent history of armed conflict, what was the legal, and the

actual, situation in that regard? At what age could a child seek to change his or her name without parental consent, and at what age could children create or join associations, or seek redress and lodge complaints on their own initiative?

15. Mrs. KARP said that early marriage was just one of many harmful traditional practices affecting girl children. What affirmative measures had been taken or were envisaged to change public attitudes to the place of girls in society, particularly with regard to education and literacy, and to eradicate de facto discrimination against them? Did the prohibition of early marriage under civil law lead to a conflict with the country's religious laws? Did the authorities avail themselves of the services of social and religious leaders in their campaigns to change attitudes towards girl children; and were positive incentives offered to discourage parents and children from contracting early marriages?

The meeting was suspended at 3.45 p.m. and resumed at 3.55 p.m.

16. Mr. DIRESSIE (Ethiopia) said that early marriage was, indeed, a serious problem in Ethiopia given the multitude of ethnic groups, cultures and languages that made up Ethiopian society. Efforts were being made to involve non-governmental organizations (NGOs) and social-sector institutions in activities and campaigns to eradicate the practice. Governmental institutions, the relevant ministries and associations were all working actively to stamp out harmful traditional practices. Activities included the compilation of information kits and educational material and training programmes.

17. A media campaign had been launched to encourage girls' school attendance. At the university level, entrance criteria had been lowered for girls.

18. One of the main problems facing the Government was the difficulty of changing attitudes given the traditional nature of Ethiopian society. One example of traditional and deep-rooted prejudice was the attitude to children born out of wedlock, although from a legal point of view they enjoyed complete equality with other children. Many programmes were under way, with the assistance of the United Nations Children's Fund (UNICEF), aimed at involving religious leaders in campaigns to discourage harmful traditional practices.

19. Children enjoyed the right to form or join associations, as had been emphasized by the Prime Minister of Ethiopia in reply to a question put to him on the Day of the African Child.

20. Children below the age of 18 years could not be conscripted into the army, not least because there was no compulsory military service in Ethiopia.

21. Mr. TADESSE (Ethiopia) said that there was no minimum age at which a child could give testimony. The testimony would, however, be accepted by the court only if it was clear that it was reliable. His Government would consider introducing a minimum age in the future.

22. Children were divided into three age groups in respect of criminal liability and punishment. Children under nine years were not considered to be criminally liable. Between the ages of 9 and 15, children found guilty of a crime would be sent to a correctional institution but were not subject to the same punishment as an adult. Between 15 and 18 years of age, young offenders were dealt with under the same provisions of the Penal Code as adults, the difference being, however, that the Code clearly prohibited the death penalty for offenders in that age group and the sentence of life imprisonment had never been passed on a child in that age group.

23. When deciding the sentence, the courts always took the personal circumstances of the child into account and guilt had to be proven beyond reasonable doubt. Corporal punishment was permitted for a child offender but could not be ordered arbitrarily by the court. In practice, however, the courts tended not to make use of that punishment. His authorities would take the provisions of the Convention relating to corporal punishment into account when the Penal Code was being amended.

24. Although early marriage was not a punishable offence, the marriage would be declared null and void immediately it was discovered. A similar approach was being taken to cases of employment of children under the age of 14, whereby the employment was immediately terminated and the employer prosecuted.

25. Only persons over the age of 18 had the right to sue or be sued. Below that age any such legal action had to be conducted through the parents.

26. Mr. ALEMU (Ethiopia) said that the Civil Code recognized civil, religious and customary marriage. It did stipulate, however, that any provisions of customary law that conflicted with those of the Civil Code were not applicable.

27. The CHAIRPERSON said that the Committee noted that the delegation of Ethiopia shared its concern over the problem of the implementation of the principles of non-discrimination and that the delegation was willing to accept the Committee's suggestions on how best to bring domestic legislation into line with the Convention. Ethiopia's commitment to amending provisions concerning which the Committee had expressed its doubts was welcome. However, Ethiopia's initiatives and activities needed to be more focused and coherent. It should look to the experience of other countries whose society was similar which had made efforts, particularly with the help of religious leaders, to overcome traditional values that were detrimental to children's health.

28. Mrs. SANTOS PAIS said that some countries had developed networks of NGOs, religious leaders and government representatives that worked at the local level to try and change the attitude to girls. Ethiopia should consider the guidelines in the recommendations drawn up by the Committee during its thematic discussions on girls and on juvenile justice. It should also try to use the general principles of the Convention as a guide when formulating policies at every level and ensure that the best interests of the child were at the heart of every measure it adopted.

29. It was equally important that the views of the child should be taken into account in the decision-making process, whether in the family, the school

or the community. A good place to put that principle into practice would be in cases of adoption, where it seemed that the wishes of the child were not heeded.

30. Mr. MOMBESHORA asked whether the views of the child were considered in the case of arranged marriages.

31. The CHAIRPERSON invited the Committee to ask questions concerning the sections of the report entitled "Civil rights and freedoms" and "Family environment and alternative care".

32. Miss MASON asked what measures were being considered to ensure the complete registration of all children in Ethiopia, an issue that had a bearing on every aspect of a child's life, from access to health services to recognition of the child as a person before the law.

33. Mrs. SANTOS PAIS said that child registration was crucial to the enjoyment of fundamental rights and freedoms and the prevention of abuse. Ethiopia should study the example of other countries which had enlisted the help of universities or civil society in registration campaigns. Were there any plans to run such a campaign or to train personnel to act as registration officers?

34. She would welcome more information about torture and other cruel and inhuman treatment. It was, indeed, good that the Constitution banned torture, but she would like to know whether the Penal Code imposed sufficiently harsh penalties. Were there any cases of the torture of street children, especially by law-enforcement officials and were such cases brought to court and publicized? It was important to make it absolutely clear to the public that torture was a serious crime and carried serious penalties.

35. She would also like to know whether there was a truly independent system - the courts or a human rights commission, for example - for dealing with children's complaints of ill-treatment in institutions.

36. Mrs. KARP said that she would like to know whether the Penal Code classified mental cruelty in the family environment as a crime. It was sometimes difficult to distinguish between abuse and treatment that was culturally acceptable, but it was important that clear lines should be drawn. If there was a complaints procedure for children housed in institutions, were they encouraged to use it? And was there any systematic and periodic evaluation of the situation of such children to decide whether they should remain in the institution or return to their homes?

37. Paragraph 86 of the report gave the astonishingly low figure of four in-country adoptions in 1991-1994. It appeared, therefore, that hardly any use was made of the civil adoption procedure. Were large numbers of children adopted under traditional arrangements without official supervision or authorization? In cases of traditional adoption, was any attempt made to investigate the situation and guarantee a good family environment for the child?

The meeting was suspended at 4.43 p.m. and resumed at 4.56 p.m.

38. Mr. DIRESSIE (Ethiopia) said that the complaints procedure for children housed in institutions was considered very important but it had yet to be established in many parts of the country. Some progress had been made in the capital through the NGO network for the prevention of child abuse and neglect. That experience might be replicated in other big cities in the near future.

39. The Civil Code did contain provisions on adoption but the traditional system, which ensured that the child was fully accepted as the child of his or her adoptive parents, was still in use. Inter-country adoption was supervised by the courts and social workers and was allowed only in the case of orphans having no extended-family or community support. There might still be some cases of illegal adoption, but the authorities were endeavouring to bring all adoptions under official control.

40. Mr. TADESSE (Ethiopia) said that it was an official requirement that all parts of the country should have registry offices for the registration of births and other acts of civil status. For the moment, however, the system was operational only in the major towns, so only a small proportion of children were registered at birth. Unregistered children were not denied their voting rights on reaching the age of majority or their rights as children, such as the right to health care and to education. The problem persisted due to a shortage of funds and human resources. The authorities were trying to make the system universal.

41. Torture was, indeed, regarded as a serious crime by the Penal Code and carried a maximum penalty of life imprisonment; the courts treated cases of torture by government officials with particular severity. There had been no cases of the torture of street children.

42. Mr. ALEMU (Ethiopia) said that it should be remembered that torture had been widely used by the former military regime. Officials of that regime were currently being prosecuted, so that there was great public awareness that torture was a serious crime.

43. Failure to register a child at birth did not affect his or her civil rights. Other institutions, such as the churches and municipalities, often performed the function of registry offices. They could issue birth certificates on request, providing that adequate evidence was supplied.

44. The supervision of child labour was a responsibility of the Ministry of Labour and Social Affairs. It was very difficult for it to fulfil that responsibility because of the scant registration of enterprises. However, employers could be prosecuted for violation of the child-labour regulations.

45. Children could traditionally be given in marriage even before birth. The Civil Code regarded such marriages as null and void, but made no provision for penalties. The Civil Code also contained provisions for 15-year-olds to conclude contracts of adoption with their family's consent. To be legal, an adoption must be approved by a court, which was required to hear the views of children aged 10 or over.

46. The CHAIRPERSON said that it seemed that the Committee would have to identify partners to support the Ethiopian Government in its efforts,

especially with regard to its civil registration system. The issue was a difficult one, because Governments usually regarded registration as a matter of national sovereignty and were unwilling to accept international assistance. Even if unregistered children were not denied their rights, it was hard to see how, for example, the Government could identify target groups and their needs or how programmes could be designed for such groups. UNICEF would, perhaps be able to help strengthen the Ethiopian system.

47. The Committee would probably wish to make recommendations concerning the supervision of child labour, especially in the informal sector. ILO might be able to make a contribution under its International Programme on the Elimination of Child Labour (IPEC) especially if the Committee suggested such a move, if action had not already been taken in fact in Ethiopia.

48. Mrs. KARP said that she still failed to understand how there could be only four in-country adoptions in a three-year period. She would like to know more about the provisions of the Civil Code on adoption and have it confirmed that legal adoption was possible only with the approval of the authorities. An arrangement under which adoption was purely a matter of agreement between families was hardly compatible with the Convention. It was perfectly possible in such a situation for children to be sold. Paragraph 17 of the written replies indicated that accession to the Hague Convention was under consideration and she would like to know whether a decision on the matter was imminent and whether there were any obstacles to such accession.

49. Mrs. SANTOS PAIS said that she was very pleased, though rather surprised, to hear that non-registration of children did not impair their rights. She doubted whether the churches and municipalities were effective substitutes for an official system, which, moreover, was obligatory under the Convention. Without registration, it was very difficult to prevent under-age children from working, being recruited into the armed forces or contracting marriage. The Committee might be able to help by supplying information on the arrangements made in other countries facing the same problem.

50. It was a good thing that the Civil Code required a child's consent to adoption, but the failure to mention that point in the report showed how widespread the traditional attitude to adoption was. It was essential for children above a certain age to be allowed to give their views, especially in cases of inter-country adoption, when they would be transferred to an entirely different culture. Stronger safeguards appeared to be needed, and she hoped that Ethiopia would soon accede to the Hague Convention. In any case, it was essential that Ethiopia should ensure compliance with all the provisions of article 21 of the Convention.

51. Torture was a common practice in many countries, and a legal framework was clearly essential for its prevention. The Committee had been informed that life imprisonment could be imposed on persons convicted of torture, but article 417 of the Penal Code provided that any public servant found guilty of improper or brutal treatment, including physical violence, was punishable by a fine or simple imprisonment, the periods of imprisonment ranging from 10 days to three years. Such a provision hardly conveyed a sufficiently strong message against torture, especially in a country with a history such as that

of Ethiopia. When revising the Penal Code, the authorities should thus consider including very strong sanctions on torture and especially the torture of children.

52. Turning her attention to the family environment, she sought further clarification of the statement that light corporal punishment of children by members of their family was permitted under Ethiopian law as an educational measure, although it was clearly not in keeping with the provisions of the Convention. She wondered whether there were any plans to amend such legislation or to find other means of discouraging the practice.

53. Mr. MOMBESHORA, noting that the Ethiopian authorities had been able to provide statistics on inter-country adoption, inquired whether there were any follow-up procedures for monitoring the well-being of the adopted children in their new countries of residence. In view of the significant increase in inter-country adoptions in recent years, he, too, would like to know if there were any plans to ratify the Hague Convention. He had some doubts regarding the statement in paragraph 78 of the report that it was an obligation of brothers and sisters to supply maintenance for a child in the absence of parents or other adult relatives. Was that a legal obligation or merely a social one?

54. Miss MASON asked where children who had been removed from parental care were placed and what services and facilities were available to them. For instance, she would like to know whether they had access to the services of a social worker with a view to their reintegration into the family home. Mention had been made of the fact that less than half of the children in especially difficult circumstances had access to social services. Moreover, although it was asserted that divorce did not represent a serious problem in Ethiopia, there was a high rate of separation, for a variety of reasons including unemployment and early marriage. In those circumstances, she was particularly concerned about the welfare of the children of single parents and the scope for their abuse, maltreatment and ultimate institutionalization or abandonment. What measures were envisaged to deal with the social and economic problems facing such children?

55. Lastly, further to the question asked by Mr. Mombeshora, she would like to know whether there was any responsibility on the part of the State for the maintenance of children when it could not be guaranteed by the parents.

56. Mrs. EUFEMIO said she shared the concern expressed by other members of the Committee regarding issues relating to adoption and more particularly with reference to the statement in paragraph 67 of the report to the effect that the adoption of an Ethiopian child by a foreigner would not imply any change in the child's nationality. She wondered whether if a change in nationality effectively occurred, the original birth certificate would be amended.

57. She would also welcome clarification regarding the possibility of adopting conceived children before their birth (para. 83) and would like to know what assurances were given that the adoptive parents could provide a better home than biological parents. By way of extension, she wondered what the incidence was of simulated births, whereby, instead of going through the normal adoption procedures, the adoptive parents simply had the child assume

their family name immediately after birth. Furthermore, where the adoptive and biological parents knew each other, was it possible for the adopted child to maintain contact with the latter? If so, she was concerned about the implications, for instance, for the bonding process of the adoptive family.

58. Were inter-country adoptions arranged in the country of adoption or did the adoptive parents normally visit Ethiopia for the proceedings? In the latter case, what guarantees were there that a period of trial custody by the adoptive parents would be allowed prior to the finalization of adoption procedures?

59. She would like to know whether there had been many cases of children being abducted from Ethiopian territory by parents who had not obtained custody in separation cases. Quite apart from the rise in inter-country adoptions, that might be another good reason for ratifying the Hague Convention without further delay.

60. Mr. DIRESSIE (Ethiopia) said that it was difficult to obtain accurate information concerning in-country adoptions since they were normally conducted at the local level in accordance with Ethiopian traditions through the agreement of the adoptive and biological parents and not brought before the civil courts. Hence the low figure for in-country adoptions given in the report.

61. Inter-country adoptions were organized by foreign adoption agencies which vetted prospective adoptive parents to ensure that they met the necessary criteria. Their findings were forwarded to the nearest Ethiopian embassy and taken up as appropriate, for the Ethiopian courts. After the adoption had been finalized, the agency was obliged to send reports and documentary evidence to the Ethiopian authorities concerning the status of the adopted child at six-month intervals until he or she had reached the age of 18. There was also a follow-up mechanism, whereby inspectors paid visits to the adopted children in the country of adoption, with the assistance of the local adoption agencies. The Hague Convention had recently been the subject of a review in Ethiopia and its ratification in the near future had been recommended.

62. As for children in especially difficult circumstances, there were five State-run orphanages with a capacity of about 2,000 children, staffed by social workers and counsellors who provided the necessary services. NGOs organized a number of support initiatives for street children in the large towns of Ethiopia. In addition, a child/family reunification programme had been undertaken jointly by the Government and NGOs and was having some success in reuniting child victims of war and drought with their parents or close relatives.

63. Mr. TADESSE (Ethiopia), referring to the legal aspects of some of the questions asked said that, according to the Ethiopian Nationality Law of 1930, the adoption of an Ethiopian child by a foreigner would not entail any change of nationality. Where a conflict of interest arose between the adopted child and its adoptive parents, the case had to be heard in the country in which the contract of adoption took place, which usually meant Ethiopia.

64. Regarding penal sanctions in cases of torture, he pointed out that the Ethiopian Penal Code of 1957 had been amended by the Special Penal Code of 1974, according to which anyone found guilty of aggravated cases of torture was liable to life imprisonment.

65. Mr. ALEMU (Ethiopia) said that many of the provisions of the Ethiopian Nationality Law of 1930 were not currently being applied in practice, in view of the provisions regarding citizenship in the new Constitution which, for example, allowed all Ethiopian citizens to change their citizenship. The Nationality Law would be revised in due course to bring it into line with the Constitution and with the international instruments ratified by Ethiopia.

66. The CHAIRPERSON invited the members of the Committee to ask questions concerning the section entitled "Basic health and welfare".

67. Mrs. KARP said that she was still particularly concerned about in-country adoption because of the absence of an appropriate mechanism to safeguard the bests interests of the child. There seemed to be no guarantees to ensure that the child was not sold into adoption. Who exactly was the guardian in such cases?

68. From the information provided, it appeared that an incredibly low percentage of disabled persons had access to the necessary services and treatment. Were there any programmes to remedy that situation, whereby a very large sector of the population was effectively being discriminated against? Furthermore, she asked whether there were studies in progress on the causes of disability, designed to preventing a further increase in the number of disabled citizens.

69. Miss MASON said she would like some information on traditional medicine and its role in compensating for the lack of modern medical practices. It was interesting that the report made no menton of social measures to improve the current standard of living, such as the provision of medical and housing allowances. She would welcome more information in that regard. What steps was the Government taking to promote industrial growth and provide greater opportunity for employment?

70. Mr. MOMBESHORA said that his main concern was the practice of genital mutilation. He had the impression that, for a variety of reasons, campaigning to change attitudes would not prove very effective and that the Government needed to devise a legal instrument to combat the problem.

71. From the statistics available, he noted that there was a high rate of maternal mortality, probably owing to the lack of adequate medical facilities. The situation could, perhaps, be improved by providing information on safer birthing methods to birth attendants.

72. He would welcome some information on the prevalence and geographical distribution of the HIV virus and AIDS and on intra-uterine infections.

73. A widespread problem that could easily be resolved through education and information was the alarmingly high mortality rate resulting from dehydration due to diarrhoeal diseases. There were many other health problems that could be tackled by improving the standards of hygiene. That could best be achieved, perhaps, by providing training to community workers on basic health matters. They could also play a useful role in reducing the high rate of preventable diseases. Health was one area in which most countries enjoyed international support. If that had not been the case so far in Ethiopia, the Committee might possibly be able to assist.

The meeting rose at 6.02 p.m.